

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

BANK OF AMERICA, N.A.,

Plaintiff,

v.

**GRANT J. SCOTT, Trustee of THE GET
GOOD TRUST; and JAMES DONDERO,
individually and as Trustee of CANIS
MAJOR TRUST,**

Defendants.

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Civil Action No. **3:08-CV-1935-L**

ORDER


Before the court are the Findings, Conclusions, and Recommendation of the United States Magistrate Judge, filed February 25, 2009. Plaintiff did not file objections.

Defendants moved to compel arbitration of this action pursuant to a loan agreement and guaranty, dated December 21, 2007, entered into by Plaintiff and Defendants. Plaintiff does not oppose the motion, but states that the court should stay, rather than dismiss, the action pending arbitration. The magistrate judge held that although the court has discretion to dismiss the action, Defendants did not oppose Plaintiff's request to stay the action, and therefore recommended compelling arbitration but staying and administratively closing the action.

Having reviewed the pleadings, file and record in this case, and the findings and conclusions of the magistrate judge, the court determines that the findings and conclusions are correct. The court determines that there is no reason to stay this action, as all of the claims are subject to arbitration, and therefore the court has discretion to dismiss with prejudice notwithstanding the language of 9 U.S.C. § 3. *Alford v. Dean Witter Reynolds, Inc.*, 975 F.2d 1161, 1164 (5th Cir. 1992); *see also*

Fedmet Corp. v. M/V BUYALYK, 194 F.3d 674, 676 (5th Cir. 1999). The magistrate judge's findings and conclusions are therefore **accepted** by the court. The court, however, disagrees that the action should be stayed, as all matters are arbitrable. Accordingly, the court **grants** Defendants' Motion to Compel Arbitration, **denies** Plaintiff's request to stay the action, and **dismisses** Plaintiff's action **with prejudice**.

It is so ordered this 16th day of March, 2009.


Sam A. Lindsay
United States District Judge